

COPY

REMARKS/ARGUMENTS

In the Office Action issued March 27, 2007, claims 1-9 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 7,107,334 to Shaffer et al. ("Shaffer"). Claims 1, 4, and 7 and the disclosure were objected to.

Claims 1-9 are now pending in this application. Claims 1-9 have been amended in response to the objections to the claims and to clarify the subject matter that the Applicant considers to be the invention. The disclosure, including the Abstract, has been amended as requested by the Examiner.

The applicant respectfully submits that claims 1-9 are not anticipated by Shaffer. Shaffer discloses replicating a plurality of original packets in a packet flow which follows a first routing path. The packet flow is received with a first device, the first device being included in the first routing path. In the first device, the original packets in the packet flow are identified according to at least one predetermined criterion. In the first device, replicate packets corresponding to the original packets are generated. The original packets are transmitted from the first device along the first routing path. The replicate packets are transmitted from the first device along a second routing path which is different from the first routing path.

In particular, Shaffer discloses that the packets on the network are efficiently transmitted using the redirection technology of the packets. Therefore, the router receives the packet based on request from the test device, identifies the packet according to predetermined criteria, and replicates the packet. The router sends the received packet to

COPY

the server or the client along original routing path, and sends the replicated packet to the test device along a different routing path using the packet redirection protocol.

By contrast, claim 1, for example, requires testing a network device by controlling, by a data controller in the network device, communication data transferred between an external device connected to the network device via a network and a plurality of virtual machines in the network device. Shaffer does not disclose or suggest any virtual machines in the network device, or indeed, any virtual machines at all.

Claim 1 further requires receiving the communication data; a judgment step of judging whether the received communication data coincides with a condition by referring to a test access control list which defines association between a condition concerning an attribute of the communication data and an action serving as a process of permitting or rejecting communication of the communication data; and an execution step of executing, when it is judged in the judgment step that the communication data coincides with the condition, the process serving as the action in the test access control list. Shaffer does not disclose or suggest this. Rather, Shaffer discloses that the router receives the packet based on request from the test device connected with the router, and processes the packet in order to identify and replicate it. Shaffer does not disclose processing the packet in order to permit or reject communication of the packet; Shaffer always permits communication of the packet. Moreover, the criteria disclosed by Shaffer for replicating a packet are different than the criteria required by claim 1 of referring to a test access control list in order determine permitting or rejecting of the communication of the received packet.

COPY

Therefore, claim 1, and claims 4 and 7, which are similar to claim 1, and claims 2-3, 5-6, and 8-9, which depend therefrom, are not anticipated by Shaffer.

Each of the claims now pending in this application is believed to be in condition for allowance. Accordingly, favorable reconsideration of this case and early issuance of the Notice of Allowance are respectfully requested.

COPY

**Additional Fees:**

The Commissioner is hereby authorized to charge any insufficient fees or credit any overpayment associated with this application to Deposit Account No. 50-4047 (4195460052).

**Conclusion**

In view of the foregoing, all of the Examiner's rejections to the claims are believed to be overcome. The Applicants respectfully request reconsideration and issuance of a Notice of Allowance for all the claims remaining in the application. Should the Examiner feel further communication would facilitate prosecution, he is urged to call the undersigned at the phone number provided below.

Respectfully Submitted,

*Edward A. Pennington*  
for

Edward A. Pennington  
Reg. No. 32,588

Dated: June 21, 2007

Bingham McCutchen, LLP  
2020 K Street, N.W.  
Washington, D.C. 20006  
Telephone (202) 373-6000  
Facsimile (202) 373-6001